

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - SPECIAL SESSION COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIR DAVE LEWIS**, on September 13, 2002 at 10:30 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chair (R)
Rep. Edith Clark, Vice Chair (R)
Rep. Matt McCann, Vice Chair (D)
Rep. John Brueggeman (R)
Rep. Rosalie (Rosie) Buzzas (D)
Rep. Tim Callahan (D)
Rep. Bob Davies (R)
Rep. Stanley (Stan) Fisher (R)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Sinrud (R)
Rep. Joe Tropila (D)
Rep. John Witt (R)

Members Excused: Rep. Joey Jayne (D)
Rep. Jeff Pattison (R)

Members Absent: None.

Staff Present: Terry Johnson, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 1 - 9/10/02
Executive Action: HB 1 - DO Pass 18-0

Chairman Dave Lewis opened the meeting excusing Representative Jayne and Representative Pattison. Proxies have been provided. Roll call was taken.

Vice Chair Clark took over the meeting at this point.

HEARING ON HB 1

Sponsor: Representative Dave Lewis, HD 55 apologized to the committee and to the legislature for the fact this Bill, HB 2 passed without an effective date in it. There is no alternative but to come back and place an effective date in the Bill. They need to discuss and look at systems' changes to make sure those things don't happen again. It is no individual's fault but to some extent, a system's failure. HB 1; "An Act amending Chapter 23, Special Laws of August 2002, **for the sole purpose** of inserting an immediate effective date, and providing an immediate effective date and a retroactive applicability date."

The last page, R-11 of the Bill, Section 2 puts the effective date in to the Special Laws for the Appropriation Act that was passed in August. Page R-12 applies to this Bill, HB 1, and makes it retroactively effective to August 26, 2002.

EXHIBIT(aph00a01)

Proponents: Senator Ric Holden, SD 1 said most of their constituents have asked why the legislature is meeting and what happened. There is a certain sense of frustration. The private sector would have simply filed an errors and omissions claim against their liability carrier. State government is different. There is a Risk Management Division that examines errors and omissions with state government attorneys. For legislative branch to take a cause of action against legislative staff for fiscal damages that people of the state are going to expend as a result of special sessions, would be counter-productive. What we should do is present a claim to the legislative council to look at what the staff of the legislature did in drafting this Bill and what the error or omission may have been. He offered amendment **EXHIBIT**(aph00a02).

Chuck Swysgood, Director, Office of Budget and Program Planning stood in support of HB 1 providing a retroactive date.

Opponents: None

Questions from Committee Members and Responses: Representative Buzzas asked the **Sponsor** to explain how HB 1 will be implemented and if it is an amendment to HB 2. Will a vote be taken on HB 2 also? Representative Lewis said this Act is an Act amending Chapter 23 which in effect is HB 2 and deals only with the sole purpose of inserting an immediate effective date listed in the Title, so HB 2 is not open and HB 1 is the only Bill to be voted on during this Special Session.

Representative Buzzas asked **Senator Holden** if this is an appropriate amendment to the language in HB 1? **Senator Holden** said at times it is difficult for somebody to take the initiative to do something. Certainly the Legislative Council may wonder if they should do anything and are not sure if anything should be done. If they proceed with the amendment, they would be placing out front for the public to see, that yes, we are taking action.

Representative McCann said he could see some frustration in this amendment but did not necessarily agree with **Senator Holden's** approach. **Senator Holden** said this amendment is designed to stop mistakes from possibly happening again. When he drafted the amendment he wasn't thinking about anybody's particular campaign.

Representative Brueggeman referred a question to the **Sponsor**. Looking at the Title of the Bill and how narrowly tailored the Title is, if they were to amend this Bill in any way, because of the words "sole purpose", would it not, in effect, be outside the Title of the Bill? **Representative Lewis** said he had the same thought and it seemed to him it was outside the scope of the Call and it certainly is outside the scope of the Title. There are some issues with the proposed amendment from a legal standpoint.

Representative Hedges referred to the amendment and that it might be outside the scope of the Call and the Title. He asked **Senator Holden** if he would be willing to have a carryover Senator sponsor this type of legislation in the next regular session? **Senator Holden** said he thought the Title would have to be amended for this Amendment to be put into the Bill. There would still be the opportunity to present a Bill to the regular session.

Representative Hedges said he would not support the amendment.

Representative Kasten said he believed the legislators and staff would agree with what **Senator Holden** is saying but does not believe an amendment is necessary. **Representative Lewis** said he thinks everything has been done to correct the matter.

Representative Tropila asked for **Greg Petesch, Director, Legal Services Division's** remarks concerning the amendment and this Bill. **Mr. Petesch** said when **Representative Lewis** requested this Bill, he asked him to draft it as tight as possible so that it could not be amended and he believes he achieved that.

Representative Fisher asked if a House/Senate Joint Resolution would be appropriate and would it accomplish the same thing?

Representative Lewis said he would have to go back and look at the Call issue a little more thoroughly. The Call is pretty much

like the Title of the Bill. The Session is for the sole purpose of inserting an immediate effective date and he feels a Resolution might not fly in that case.

{Tape : 1; Side : A; Approx. Time Counter : 0 - 29}

Closing by Sponsor: Representative Lewis said Appropriation Bills do not go through the same review as all other legislation. They have a situation where one branch of the legislative staff handle appropriation bills and they are not entirely within the purview of the counsel for the legislature. That is the issue they need to think about as being assured the system is clear and it provides an option for an insurance company.

EXECUTIVE ACTION ON HB 1

Motion/Vote: REP. HAINES moved that HB 1 DO PASS. Motion carried unanimously. 18-0

Meeting adjourned.

ADJOURNMENT

Adjournment: 11:05 A.M.

REP. DAVE LEWIS, Chair

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT(aph00aad)